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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

DEBORAH LANHAM,

Defendant and Appellant.

D044570

(Super. Ct. No. SCD159134)

APPEAL from a judgment of the Superior Court of San Diego County, David M. Szumowski, Judge. Affirmed as modified with directions.

Deborah Lanham pleaded guilty to theft from an elder adult (Pen. Code, § 368, subd. (d)), second degree burglary (Pen. Code, § 459), and using personal identifying information of another (Pen. Code, § 530.5, subd. (a)). The court suspended execution of a five-year four-month prison sentence (the four-year upper term for theft from an elder adult and consecutive eight-month, one-third the middle term sentences for the remaining offenses); suspended criminal proceedings; committed her to the California Rehabilitation Center (CRC) (Welf. & Inst. Code, § 3051); imposed a \$200 restitution

fine (Pen. Code, §§ 1202.4, subd. (b), 2085.5); and assessed a \$200 parole revocation fine (Pen. Code, § 1202.45). After CRC rejected Lanham for excessive criminality, the court reinstated criminal proceedings, executed the prison sentence, and imposed an \$800 restitution fine and a \$800 parole revocation fine.

Lanham appeals, contending the court improperly increased her restitution fine from \$200 to \$800. The People properly concede the point. (Cf. *People v. Johnson* (2003) 114 Cal.App.4th 284, 306-308.) Additionally, the court improperly increased the parole revocation fine from \$200 to \$800. (Cf. *ibid.*; *People v. Smith* (2001) 24 Cal.4th 849, 851.)

#### DISPOSITION

The judgment is modified by striking the \$800 restitution fine and the \$800 parole revocation fine. The \$200 restitution fine and the \$200 parole revocation fine remain. As so modified, the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment and to forward it to the Department of Corrections.

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HUFFMAN, J.

WE CONCUR:

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McCONNELL, P. J.

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NARES, J.